



Plaintiffs' counsel had to have known that their federal Complaint was barred. It was objectively unreasonable for them not to have known it. But they proceeded nonetheless, even after Cornwell's counsel gave prompt and repeated warning. It is worth noting that Plaintiffs' lead counsel has previously violated established standards of practice, so that the present situation is not an isolated lapse. *Disciplinary Counsel v. Shimko*, 2012-Ohio-5694 (Ohio S.Ct.); *Disciplinary Counsel v. Shimko*, 2009 Ohio 6879 (Ohio S.Ct.)(imposing parallel sanctions to those imposed *In the Matter of Timothy A. Shimko*, 2009 Ariz. LEXIS 154 (Ariz. S.Ct.)(Not reported in P.2d), pursuant to the related decision in *Shimko v. Goldfarb*, 2008 WL 4277602 (USDC D.AZ)(Not reported in Fed. Supp. 2d)); *In re Flexible Artcraft Graphics Unlimited, Inc.*, 74 B.R. 917 (1987).

The procedural requirements of Fed. R. Civ. P. 11(c) were met by the service of this motion on Plaintiffs' counsel on June 23, 2015, more than twenty-one days before its filing (with non-substantive changes in the present filed version to reflect the leave granted to file the Opposition). A letter giving notice of the violation and requesting withdrawal was moreover sent just after the Complaint was filed, to no effect.

A judgment for attorney fees is the appropriate sanction. As set forth in the attached Declaration of Cornwell's counsel, the 30 hours of work on the Motion to Dismiss and this motion has been efficient. At the rate of \$250.00 per hour, which is reasonable for Northeast Ohio, judgment should be entered against Plaintiffs' counsel in the amount of \$7,500.00. A hearing on a motion for sanctions is not necessarily required. *Hy-Ko, supra*, at \*5.

Respectfully submitted,

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**CERTIFICATION OF LOCAL RULE 7.1(f) COMPLIANCE**

This case has not yet been assigned a track. This memorandum adheres to the page limitation for unassigned cases.

/s/ Robert M. Gippin

Robert M. Gippin (Ohio #0023478)

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Memorandum was served by filing on the Court's ECF system this 16th day of July, 2015, which will provide a copy to all parties of record.

/s/ Robert M. Gippin

Robert M. Gippin (Ohio #0023478)